

HOUSE TRANSPORTATION COMMITTEE

ADMINISTRATIVE RULES REVIEW

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2006 Legislative Session

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IDAPA 11 - IDAHO STATE POLICE

11.13.01 - THE MOTOR CARRIER RULES

DOCKET NO. 11-1301-0601

NOTICE OF RULEMAKING - TEMPORARY RULE

EFFECTIVE DATE: The effective date of the temporary rule is October 3, 2005.

AUTHORITY: In compliance with Section 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) 67-2901A, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than February 22, 2006.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The Federal Carrier Motor Carrier Safety agency issued a final rule August 25, 2005 revising CFR 395 "Hours of Service for Drivers". The revised rule goes into effect October 1, 2005. The Idaho State Police receives federal grant MCSAP funds that require it to enforce this rule. Failure to enforce this rule will result in the loss of those funds. Update the incorporated reference of 49 CFR 395 to the August 25, 2005 version.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section(s) 67-5226(1) (b), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons: Compliance with deadlines in amendments to governing law or federal programs.

FEE SUMMARY: Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: There is no fee associated with this rule change.

FISCAL IMPACT: There is no negative fiscal impact attributable to this rule change.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because this change is required due to revisions to the governing federal Code.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Captain Lamont Johnston at (208) 884-7221.

Anyone may submit written comments regarding this proposed rulemaking. All written comments

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must be directed to the undersigned and must be delivered on or before February 22, 2006.

DATED this 10th day of November, 2005.

Colonel R. Dan Charboneau
Director
Idaho State Police
700 S. Stratford
P. O. Box 700
Meridian, ID 83680-0700
208-884-7003 Fax 208-884-7090

THE FOLLOWING IS THE TEXT OF THE TEMPORARY RULE

019. CARRIER SAFETY REQUIREMENTS.

01. Adoption of Federal Regulations. Adoption of Federal Regulations 49 CFR Parts 356, 365, 382, 383, 385, 387, 388 and 390 through 399 are hereby adopted by reference. All interstate and foreign carriers and all intrastate carriers subject to the safety authority of the Idaho State Police while operating in Idaho that transport passengers or property must comply with 49 CFR Parts 356, 365, 382, 383, 385, 387, 388 and 390 through 399, and the law and rules of the state of Idaho (except Part 391.11(b)(1) for intrastate carriers). The subject matter of 49 CFR 391.11(b)(1) is a twenty-one (21) year minimum age for drivers of commercial vehicles subject to federal safety regulation. Intrastate carriers subject to the safety authority of the Idaho State Police may hire drivers who are eighteen (18) years or older as set forth in Section 49-303, Idaho Code. Whenever any one (1) of these federal regulations (except Section 391.11(b)(1)) exempts intrastate carriers from any of their requirements, this Rule at IDAPA 11.13.01, "The Motor Carrier Rules," Section 019 removes that exemption and subjects the intrastate carrier to the same requirements. The Department asserts its authority under this Section 019 to the maximum extent allowed by Section 67-2901A, Idaho Code, Public Laws 89-679 and 89-170 (see 49 U.S.C. 502(c)(3)), 49 CFR Part 388. (3-20-04)

02. Obligation of Familiarity With Rules. All interstate and foreign carriers and all intrastate carriers subject to these Rules at IDAPA 11.13.01, "The Motor Carrier Rules," Section 019 must obtain copies of the federal regulations adopted by reference in Subsection 019.01 and make them available to their drivers and other personnel affected by the regulations. Failure to be familiar with these federal regulations adopted by reference is a violation of this Subsection 019.02 for any carrier subject to those regulations. The federal regulations adopted by reference address the following subject matter: (4-5-00)

- a. Part 356. Authority to Serve a Particular Section - Construction. (3-20-04)
- b. Part 365. How to Apply for Operating Authority. (3-20-04)

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- c. Part 382. Controlled Substance and Alcohol Use and Testing. (4-5-00)
- d. Part 383. Commercial Driver's License Standards; Requirements and Penalties. (4-5-00)
- e. Part 385. Safety Fitness Standards. (4-5-00)
- f. Part 387. Financial Responsibility. (3-20-04)
- g. Part 388. Cooperative Agreements with States. (4-5-00)
- h. Part 390. Federal Motor Carrier Safety Regulations: General. (4-5-00)
- i. Part 391. Qualifications of Drivers. (4-5-00)
- j. Part 392. Driving of Motor Vehicles. (4-5-00)
- k. Part 393. Parts and Accessories Necessary for Safe Operation. (4-5-00)
- l. Part 395. Hours of Service of Drivers. (4-5-00)
- m. Part 396. Inspection, Repair and Maintenance. (4-5-00)
- n. Part 397. Transportation of Hazardous Materials; Driving and Parking Rules. (4-5-00)
- o. Part 398. Transportation of Migrant Workers. (4-5-00)
- p. Part 399. Employee Safety and Health Standards. (4-5-00)

03. Recognition of Federal Waivers. Whenever a driver or carrier has applied to a federal agency and been granted a waiver from any of the requirements of the federal regulations adopted in Subsection 019.01, the federal waiver will also be recognized under these rules. The Department reserves the authority to implement a waiver program and grant waivers on the state level for intrastate commercial motor vehicle drivers. (4-5-00)

04. Version of Federal Regulations Adopted. The federal regulations adopted by reference in this Subsection 019 are those contained in the compilation of 49 CFR Parts 356, 365, 382, 383, 385, 387, 388, 390 through 394, and 396 through 399 published in the Code of Federal Regulations volumes dated October 1, 2002, and Parts 393 ~~and 395~~ published in the Code of Federal Regulations volumes dated January 4, 2004, and Part 395 published in the Code of Federal Regulations volume dated August 25, 2005. ~~(3-20-04)~~(10-3-05)T

05. Availability of Incorporated Documents. The 49 CFR's can be found at www.fmcsa.dot.gov or copies may be viewed at the central office of the Idaho State Police. (3-20-04)